State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:	)	
	)	
BRANDON LOJACONO,	)	**Case No. 170410**
	)	
Applicant.	)	

ORDER REFUSING TO ISSUE MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

On February 7, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue a motor vehicle extended service contract producer license to Brandon Lojacono. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Brandon Lojacono, ("Lojacono") is a Missouri resident with a residential address of record of 764 Timbervalley Court, Chesterfield, Missouri, 63017.

2. On April 23, 2012, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Lojacono's incomplete Application for Motor Vehicle Extended Service Contract Producer License ("Application"). After Lojacono provided further required information, the Application became complete on June 1, 2012.

3. The "Applicant's Certification and Attestation" section of the Application, states, in relevant part:

    1. I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

4. Lojacono signed the Application in the "Applicant's Certification and Attestation" section under oath before a notary.

5. Background Question No. 1 of the Application asks the following:

Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

"Crime" includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license or juvenile offenses. "Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine.

"Had a judgement withheld or deferred" includes circumstances in which a guilty plea was entered and/or a finding of guilt is made, but imposition or execution of the sentence was suspended (for instance, the defendant was given a suspended imposition of sentence or a suspended execution of sentence—sometimes called an "SIS" or "SES").

If you answer yes, you must attach to this application:
a) a written statement explaining the circumstances of each incident,
b) a copy of the charging document, and
c) a copy of the official document which demonstrates the resolution of the charges or any final judgment[.]

6. Lojacono marked "Yes" to Question No. 1. With his Application, Lojacono included a signed written statement that read, verbatim in its entirety:

LOX

In May-November of 2008 there was an investigation conducted in regards to alleged sexual misconduct involving a minor. Three years later in April of 2011, charges were filed under what the Missouri statute calls, minor enticement. Due to the lapse of time between the investigation and the actual charges being filed, as well as the clouded, unclear evidence presented by the prosecution for the matter in question, it was to the advise of my legal council that I plea guilty to the amended charges of attempted statutory rape. The supporting documents attached will show the sentence handed down to me. There was no incarceration for this offense. I have maintained a clean record prior to, and after this alleged offense in 2008. There have been no arrests or charges in any state, including Missouri. I am applying for this license today so that I may re-enter into the Vehicle Service Contract industry and make a living for me and my family.

7. Lojacono also included a Plea of Guilty, the Sentence and Judgment, the Information in

Lieu of Indictment and an Order of Probation from *State of Missouri v. Brandon A. Lojacono, St. Louis County Cir. Ct.*, 11SL-CR02367-01.

8. The Information stated, in part, that:

> [O]n or between May 1, 2008 and November 30, 2008, in the County of St. Louis, Missouri, the defendant [Lojacono] communicated with E.S., whom he believed to be a 14 year old girl, via chat room [and attempted to persuade her to come with him to the mall to shop and engage in sexual intercourse] and the defendant then drove to the designated meeting place to pick up E.S., and at that time E.S. was an undercover police officer ... and such conduct was a substantial step toward the commission of the crime of statutory rape in the second degree of E.S., and was done with the purpose of committing such statutory rape in the second degree.

9. On January 5, 2012, Lojacono pled guilty in the St. Louis County Circuit Court to Attempted Statutory Rape in the Second Degree, a Class D Felony in violation of §§ 566.034 and 564.011, RSMo. *State of Missouri v. Brandon A. Lojacono, St. Louis County Cir. Ct.*, 11SL-CR02367-01.

10. The court sentenced Lojacono to four (4) years' incarceration but suspended execution of the sentence and granted Lojacono five (5) years' probation, including 120 days of electronic home detention as a condition of parole. The court also required Lojacono to register as a sex offender.

11. On June 29, 2012, in response to an inquiry by a Department investigator, Lojacono provided further written explanation of his felony conviction, in which he focused on the plea bargaining process and noted that "there was no minor person(s) involved" and "no physical contact was ever made." He also described his recent work history in the motor vehicle extended service contract industry.

CONCLUSIONS OF LAW

12. Section 385.209 RSMo, Supp. 2012,[1] provides, in part:

> 1. The director may suspend, revoke, refuse to issue, or refuse to renew a registration or license under sections 385.200 to 385.220 for any of the following causes, if the applicant or licensee or the applicant's or licensee's subsidiaries or affiliated entities acting on behalf of the applicant or licensee in connection with the applicant's or licensee's motor vehicle extended service contract program has:
>
> * * *

[1] Statutory references are to the 2012 version of the Revised Statutes of Missouri unless otherwise noted.

(5) Been convicted of any felony[.]

13. Just as the principal purpose of § 375.141, the insurance producer disciplinary statute, is not to punish licensees or applicants, but to protect the public, *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984), the purpose of § 385.209 is not to punish applicants for a motor vehicle extended service contract producer license, but to protect the public.

CAUSE FOR ORDER TO REFUSE TO ISSUE A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE

14. Lojacono may be refused a motor vehicle extended service contract producer license pursuant to § 385.209.1(5) because he has been convicted of a felony:

    a. *State of Missouri v. Brandon A. Lojacono, St. Louis County Cir. Ct.*, 11SL-CR02367-01 (Attempted Statutory Rape in the Second Degree, a Class D Felony in violation of §§ 566.034 and 564.011, RSMo.).

15. The Director has considered Lojacono's history and all of the circumstances surrounding Lojacono's Application. Granting Lojacono a motor vehicle extended service contract producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue a motor vehicle extended service contract producer license to Lojacono.

16. An order refusing to issue a motor vehicle extended service contract producer license to Lojacono is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of **Brandon Lojacono** is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 13TH **DAY OF** FEBRUARY**, 2013.**

JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2013, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by regular and certified mail at the following address:

Brandon Lojacono
764 Timbervalley Court
Chesterfield, Missouri 63017

Certified No. _____

_____
Hailey Boessen
Senior Office Support Assistant
Agent Investigation Section
Missouri Department of Insurance, Financial
Institutions and Professional Registration
301 West High Street, Room 530
Jefferson City, Missouri 65101
Telephone: 573.751.2640
Facsimile: 573.526.4898
Email: hailey.boessen@insurance.mo.gov